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induced to, or will be compelled to become more "inclusionary" in making their land use decisions, Franklin, Falk, and Levin have produced a concise, readable overview of why and how suburban communities should be encouraged to assume their share of metropolitan problems. In the introduction to the book, the authors note that "[t]he *validity* of the literature, as we analyze it, can only be tested by whether courts or policy-makers accept the prescriptive guidance of the literature, including this analysis" (p. 20). Hopefully, their success in organizing and presenting this material for the nonacademic and nonlawyer will be matched by success in their own terms with courts and policymakers.

FREEDOM TO DIE: MORAL AND LEGAL ASPECTS OF EUTHANASIA.
By O. Ruth Russell.¹ New York: Human Sciences Press. 1975.
Pp. 352.

*Reviewed by Ira M. Lechner*²

The concept of euthanasia has troubled men and women since ancient times. Socrates, Plato and Aristotle each sought to justify the notion that man is the master of his own body with the right to decide his own fate. In the fifth century, Saint Augustine took a different view, shaping Christian thought by declaring that "suicide is detestable and damnable wickedness" (p. 54). This philosophy, which has remained alive but not unchanged throughout the Christian era, is criticized, as is any argument against euthanasia, by O. Ruth Russell in her book *Freedom to Die: Moral and Legal Aspects of Euthanasia*. In her articulate review and analysis of the relevant historical and contemporary thought and action, Dr. Russell expresses open and unabashed support for legalized euthanasia. Readers who have any moral qualms about it, or who for practical and legal reasons support the legislation of less drastic measures, will find little to comfort or support them in this book.

Death with dignity legislation attempts to deal effectively with state laws and court decisions which still cling to the Christian idea as espoused by Saint

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2. Member, Virginia House of Delegates. B.A., 1955, Randolph-Macon College; L.L.B., 1958, Yale University. Mr. Lechner proposed death with dignity legislation in the 1975 session of the Virginia state legislature. Va. H.B. 1935 (1975).

Augustine. The legislation would legalize the "living will" and permit persons 18 years of age and older to write instructions to their doctor ordering that he or she not use heroic or extraordinary artificial means to prolong life, if and only if the patient becomes terminally ill. While such legislation would seem to appeal to proponents of euthanasia, it differs significantly from the voluntary, active euthanasia advocated by Dr. Russell. Voluntary, active euthanasia involves the taking of a positive step to shorten life before its natural end; death with dignity legislation allows a patient to refuse artificial means which would prolong life beyond its natural termination. Dr. Russell and her supporters find the latter approach to the problem too mild and timid, and oppose it as vigorously as they do outright criticism of voluntary, active euthanasia.

In Part I of her book, Dr. Russell frames her argument for voluntary, active euthanasia by discussing contemporary society's changing attitudes towards death and dying. In Part II, she traces the history of euthanasia through its legislative proposals, academic thought, and legal and medical comment. Finally, Dr. Russell concludes by arguing for the legalization of euthanasia, first setting up all arguments against euthanasia as straw men to be blown over with little hesitation and then advancing proposals for new and changed euthanasia legislation.³

In the historical review of thought and action on euthanasia in the Western Christian world, Dr. Russell notes with cynicism that Saint Augustine's view was formed at a time when many Christians were committing suicide; his philosophy, in her view, "may have been based partly on practical considerations, since a high birth and survival rate among Christians at this time was crucial to the spread of Christianity" (p. 54). But Saint Thomas Aquinas, writing in the 13th century, expanded the Christian concept of death by arguing that suicide usurped God's power over creation and death; since persons are God's property under this view, only God should determine when persons die (p. 55). Dr. Russell notes that Aquinas premised his thoughts on the concept that natural law and a person's natural inclinations are contrary to self-destruction, and that suicide would deprive

3. Dr. Russell presents in the Appendix of her book several legislative proposals previously introduced in state legislatures. Among them is "An Act to Legalize Euthanasia", presented to the Connecticut Assembly in 1959. CONN. H.B. 2527 (1959). After defining euthanasia as the "termination of human life by painless means for the purpose of ending severe physical suffering", *id.* § 1, the bill provided that the superior court judge in the patient's county "[has] jurisdiction of and shall grant euthanasia", *id.* § 3, to any person over 21 who is suffering severe pain from "a disease for which no remedy . . . [is] known to medical science", *id.* § 2, upon petition by the patient and two witnesses, *id.* § 4, and after consultation with a committee of "three competent persons, who are not opposed to euthanasia as herein provided", *id.* § 5.

society of a person's presence and activity. Dr. Russell characterizes Aquinas as one who not only opposed suicide, but who "even extolled suffering" (p. 55). By way of contrast, however, she suggests that Sir Thomas More was "a forerunner of present-day proposals to provide for the administration of euthanasia with legal safeguards" (p. 56), in his idea of a model society in *Utopia*, an essay published in 1551. Dr. Russell calls More's view "refreshing," and highlights his "compassion, comprehension and conviction" with a lengthy quote from *Utopia* (pp. 55-56).

Throughout the book, Dr. Russell weaves the notions of opposition to euthanasia with claims of superstition and religious inflexibility. Time and again she highlights comments that challenge opposition to euthanasia, from church as well as lay authorities. In further support of her position, Dr. Russell attacks the "wedge argument," an approach used by many opponents of euthanasia legislation. The "wedgers," as the author characterizes those who adopt this approach, are represented in the book in the statements of Dr. Leo Alexander, a psychiatrist at Tufts College Medical School, who, in analyzing the Nazi war experiments, asserted that those responsible "started from small beginnings" (p. 92). These "beginnings" included acceptance of the attitude that there is such a thing as a life not worthy of being lived, an attitude which he claimed was basic also to the euthanasia movement (pp. 92-93).

As with all arguments against euthanasia, Dr. Russell finds little merit in this wedge approach, a position many others can agree with whether they favor or oppose active euthanasia on its merits. A similar view was expressed by Richard Trubo, who wrote:

The "wedge theory," although valuable for argumentative purposes, must be viewed cautiously. [The wedge theory] can be raised against any new proposal, making even the most reasonable idea seem perilous. Yet simply because appalling consequences can be imagined is no reason to reject every new proposal.⁴

However, to dismiss the wedge argument in principle and to ignore its practical effect is to miss its potential. When I proposed death with dignity legislation to the Virginia legislature, the wedge argument was used by opponents of the measure with great effect. They argued that they had no particular opposition to the actual words of the proposed death with dignity statute, but expressed the concern that any legislation in this area of the law could lead the way to active euthanasia sometime in the future.

Reviewing many of the court decisions which hold that a patient has a right to refuse medical treatment except when there is an overriding state

4. R. TRUBO, AN ACT OF MERCY: EUTHANASIA TODAY 162 (1973).

interest, as well as numerous jury verdicts which freed "mercy killers," Dr. Russell notes that under present laws, doctors might be charged with criminal homicide or negligence for failing to prolong the life of a terminal patient even when the patient has left instructions not to use extraordinary means. Such a result could obtain simply because no state law recognizes the validity of such a written instruction when the patient is no longer alert and awake. Yet Russell finds death with dignity legislation, which attempts to deal effectively with that legal morass, too tame and too timid. Only legislation providing for voluntary euthanasia with careful safeguards to ensure informed consent, rational choice, and mental competence is acceptable to her. She specifies the ingredients for such legislation and concludes as follows:

Reverence for life and freedom of choice must be the basis for any action regarding euthanasia. Society must recognize also that undesirable pressures arise when freedom and justice are denied and also when citizens are required to bear useless, unreasonable expenditures and suffering. To avoid such undesirable pressures, society must act now to permit an easy and dignified exit from life when life is no longer something to be desired. We must treat death as an inevitable part of existence to be faced realistically, not evasively; it is often man's friend.

It seems certain that it is only a matter of time until laws will be passed that will permit the administration of painless death when the only alternative is an agonizing or meaningless existence. It is a challenge to every citizen to hasten that day. (P. 283).

Euthanasia presents legal and ethical options to society which have not been fully explored in the literature. This book presents only the pro-euthanasia side of the story, and that in a nonlegalistic manner. The full story, with detailed legal analysis, remains to be told.

